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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, QUANG

ART UNIT

PAPER NUMBER

1633

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claims 1, 3, 6-35, 40, 46-48, 50-51, 54-84 and 86-108 **(92 claims total)** are pending in the present application, and they are subjected to the following Species restrictions.

Species Election/Restrictions

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

1. (a) insertion site(s); (b) a single specific encoded heterologous polypeptide recited in the Markush group of claim 10 or claim 58 or claim 104, **please note that the selected species can not encompass a subspecies**; (c) an antisense nucleic acid; and (d) siRNA.
2. (a) a ribosome binding site; (b) a constitutive promoter; and (c) an inducible promoter.
3. A single specific insertion site or a specific combination of insertion sites recited in the Markush group of claim 16 or claim 64.
4. (a) GFP; (b) EGFP; and (c) a defined nucleotide sequence detectable by hybridization under high stringency conditions with a corresponding labeled nucleic acid probe.

5. A single specific herpes simplex virus recited in the Markush group of claim 35.

6. A single specific herpes simplex virus strain recited in the Markush group of claim 76.

7. A single specific or a single combination of additional steps recited in claim 100.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

1. Each of the listed species of a component present in a nucleic acid vector or a herpes simplex virus is different structurally and has different properties one from the others.

2. Each of the listed species of vector component is different structurally and has different properties one from the others.

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3. Each of the listed species of an insertion site is different structurally one from the others.

4. Each of the listed species of a marker gene is different structurally one from the others.

5. Each of the listed species of a generated herpes simplex virus is different structurally and has different properties one from the others.

6. Each of the listed species of herpes virus strains is different structurally and has different properties one from the others.

7. Each of the listed species of methods containing at least an additional step is different one from the others.

Each of the aforementioned species is different structurally and has different properties one from the others. Each different structure can be considered to be a "special technical feature"; and therefore the listed species lack the same or corresponding special technical features.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang Nguyen, Ph.D., whose telephone number is (571) 272-0776.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Joseph T. Woitach, Ph.D., may be reached at (571) 272-0739.

To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1633; Central Fax No. (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

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also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

/QUANG NGUYEN, Ph.D./

Primary Examiner, Art Unit 1633